

Clarke County

Planning Commission
Regular Meeting Minutes
May 6, 2016



A regular meeting of the Planning Commission of Clarke County, Virginia, was held at the Berryville/Clarke County Government Center, Berryville, Virginia, on Friday, May 6, 2016.

ATTENDANCE

George L. Ohrstrom, II, Chair; Anne Caldwell, Vice Chair; Robina Bouffault; Randy Buckley; Mary Daniel; Scott Kreider; Frank Lee; Gwendolyn Malone; Cliff Nelson and Jon Turkel.

ABSENT

Doug Kruhm

STAFF

Brandon Stidham, Planning Director; Ryan Fincham, Senior Planner/Zoning Administrator; and Debbie Bean, Recording Secretary.

CALLED TO ORDER

Chair Ohrstrom called the meeting to order at 9:01 a.m.

APPROVAL OF AGENDA

The Commission voted to approve the Agenda as revised.

Yes: Caldwell, Bouffault, Buckley, Lee, Kreider, Daniel, Malone (seconded), Nelson (moved), Ohrstrom and Turkel

No: No one

Absent: Kruhm

APPROVAL OF MINUTES

The Commission voted to approve the briefing meeting minutes of March 29, 2016

Yes: Caldwell (moved), Bouffault, Buckley, Lee, Kreider, Daniel, Malone (seconded), Nelson, Ohrstrom and Turkel

No: No one

Absent: Kruhm

The Commission voted to approve the regular meeting minutes of April 1, 2016

Yes: Caldwell, Bouffault (seconded), Buckley, Lee, Kreider, Daniel (moved), Malone, Nelson, Ohrstrom and Turkel

No: No one

Absent: Kruhm

Public Hearings

RZ-16-01, Shenandoah Retreat Land Corporation (owner) and Philip Jones (applicant). Request the rezoning of a 2,223 square foot portion of a 14,165 square foot proposed adjusted parcel from Forestal-Open-Space Conservation (FOC) to Rural Residential (RR). The purpose of the request is to rezone all of the subject property to the RR District to avoid having a split-zoned parcel. The subject properties are located at or near 609 Laurel Lane, Buckmarsh Electoral District, and are referenced as Tax Map Parcel 17A1-8-100 & 100A, 17A1-8-31, & 17A1-A-1.

Mr. Fincham gave a power point presentation as he explained this proposal. He stated that the Owner and the Applicant are requesting the rezoning of a 2,223 square foot portion of the subject property from the FOC District to the RR District in order to complete a Boundary Line Adjustment needed to provide a satisfactory area for an existing structure currently resting on two separate parcels with different zoning classification and with separate ownership. He said that the boundary line adjustment ordinance does not permit an adjustment that would alter a property line coincident with a zoning district boundary. He stated that Staff has no outstanding concerns with the request. After discussion with Staff and the Commission, Chair Ohrstrom opened the public hearing.

There being no public comments, Chair Ohrstrom closed the public hearing.

The Commission voted to recommend approval of this request to the Board of Supervisors.

Yes: Caldwell (seconded), Bouffault (moved), Buckley, Lee, Daniel, Malone, Nelson, Ohrstrom and Turkel

No: No one

Absent: Kruhm

Abstain: Kreider

SUP-16-01/SP-16-01, Hecate Energy, LLC. Request approval of a Special Use Permit (SUP) and Site Plan to construct a 20MW solar power plant, large photovoltaic, in the Agricultural- Open Space-Conservation (AOC) District per §3-A-1-a-3(s) of the Zoning Ordinance. The property is identified as Tax Map #27-A-5, located on the north side of Lord Fairfax Highway (U.S. 340) with frontage on the west side of Gun Barrel Road (Rt. 644), north side of Double Tollgate Road (Rt. 670), north side of Highland Corners Road (Rt. 669), and east side of Stonewall Jackson Highway (U.S. 522) in the White Post Election District.

Mr. Stidham gave a power point presentation as he explained this proposal. He said that the subject property is located on the north side of Lord Fairfax Highway. He said the property is bisected by the County line – 234.84 acres of the parcel are located in Clarke County and 51 acres are located in Frederick County. He said the Applicant has proposed a 233.0385 acre lease area for the facility which would be located entirely on the Clarke County side of the parcel. He said that this request was originally scheduled for Public Hearing at the Commission's April 1, 2016 meeting. He stated that due to unresolved issues with the request, the applicant requested and was granted a month deferral to the Commission's May 6 meeting. He said that the Applicant filed a revised site plan and supporting documentation for review and indicated that they were prepared to move forward to the May 6 Public Hearing on the request. He said that the proposed facility would consist of a series of solar panels mounted on a specialized framing system that allows the panels to track with the position of the sun

throughout the day. He stated that the total area of the panel field would be 150 acres. He said that the construction of the facility would take approximately four to six months and would involve installation of the panels, framing, electrical cabling, and equipment necessary to connect the facility to the electrical grid. He stated that the facility will be accessed via an existing driveway on Highland Corners Road, and a six-foot high chain link fence with gating and security features will be installed around the site perimeter and within the site. He said that the Applicant said training will be offered on the facility's equipment and operations to the County's emergency responders in an effort to develop procedures and protocols for potential incidents at the facility. He stated that at the completion of the facility, it will be unmanned with minimal security lighting at the main entrance gate. He said that traffic will consist of periodic visits to conduct routine inspections and maintain the facility and grounds. He stated that the Applicant's narrative states that the facility is expected to have a maximum lifespan of 35-40 years.

Mr. Stidham outlined in detail the list of conditions, including adequate landscaping; removal of existing debris on the property; a guarantee that the project will not adversely affect plants and wildlife; and a guarantee the facility will not cause water pollution and soil erosion. He stated that the Virginia Department of Transportation must also approve a low-volume commercial entrance to the facility. He said that all permits must be submitted to Staff before a building permit is issued. He stated that all landscaping must be installed prior to issuance of a Certificate of Occupancy. Mr. Stidham stated that Staff received a letter from DEQ stating that all their concerns have been met except for a few minor items.

Mr. Stidham stated that two representatives from Hecate (Preston Schultz, Development Director and Patti Shorr, Vice President of Project Development) are present to do a power point presentation and answer questions from the Commission.

Mr. Schultz stated that they have a few slides to show and will discuss solar energy in general. He said that Hecate Energy has been around since July 2012. He stated that this particular project has been in the works since 2009 or 2010 beginning with Cornerstone Power. He said that Hecate is very focused on domestic solar as well as international solar. He showed slides in different areas of the country that Hecate has completed. He stated that this proposal will be a 20 MW power plant and the sunlight hits the solar panels which then generates the energy production.

Ms. Shorr spoke to the Commission regarding the timing of the proposed site. She stated that in the fall of 2015 Hecate started researching the proposed area. She stated that this is a lengthy process. She said the most important item is finding someone to purchase this power. She stated that they won a bid in October and started the process to move forward. She said they are planning to be in service by December 31, 2016. She stated that the construction for this proposed site will take from four to six months. She said they are mindful of the neighbors through this procedure and we plan to make this a very smooth process. She stated that the landscaping for this proposal is large and it will need to be maintained which they plan to outsource through the County. She encouraged the Planning Commission to move this proposal forward to the Board of Supervisors. She said that all of the equipment has been purchased and they really would like to complete this project by December 2016.

After discussion with Staff and the Commission, Chair Ohrstrom opened the public hearing.

Matt Tederick, 21 Edgewood Street, Front Royal, Virginia stated that his grandfather was a minister at the Church in Double Tollgate. He said that several years ago as a deacon in his Church along with two elders they purchased the Church property in Double Tollgate. He said that this property has a lot of personal sentiment to him. He said that he is not here opposing or supporting the project and he said he did not know what the process is in Clarke County for a Special Use/Site Plan. He stated that he was on the Warren County Board of Supervisors in 1996 through 2000 and had the honor of being the Vice Chairman. He said during that time they made some tough decisions in Warren County. He said that is when they decided to set up industrial areas, future commercial areas and it was during this time that they decided to expand water and sewer. He stated that in Warren County they recognize the life blood of the community as far as tax revenue it was going to be the 522 corridor. They spent a significant amount of money and it has paid off well. He said what he was surprised about doing research on this proposed project is that he did not get the sense of a financial impact. He stated in the report that Staff prepared it states it is hard to determine the financial impact to the neighbors. He said that he bets there are a lot of neighbors here today wondering if this solar project (235 acres) is going to increase their property values, have no impact on their property values or decrease their property values. He stated that he can tell us that the properties that were acquired for the commercial and industrial development in Warren County most of those home owners are now sitting on a beach in Tahiti because those kind of projects tend to really increase property values. He said that he thinks this is a big question and to possibly table this request until we get an idea how this will impact the neighbors.

He stated that regarding economic assessment what kind of impact is this going to have on the County. He asked how much tax revenue this will bring into the County as compared to a Commercial or Industrial Development. He said that he recently read the Double Tollgate Area Plan on the website and it states that while the traffic has increased on Route 522 no new private development has occurred since the adoption of the plan in 2002. He stated that he would argue that Clarke County will probably not have any new development in the Route 522 corridor in the next 12 to 14 years until you bring in infrastructure. He said that the water and sewer is vitally necessary in that area. He asked if this project is deferred will there be another public hearing. Chair Ohrstrom told him we would probably continue our public hearing if that is what is decided or it could possibly move forward to the Board of Supervisors to set public hearing and that would be the place to bring up your tax questions. Chair Ohrstrom said we are well aware of the need for services in that area.

Brenda Marshall Miles said she has lived in the Double Tollgate area since 1969, and that she has had issues with her home phone and cable television when it rains. She stated that a few years ago someone tried to put something on the property which you are now proposing to put the solar farm. She said the trucks came in on this little back road and cut into her property which she had to have landscaped. She stated that the map for the proposed project shows the Freeman parcel and the Lane, but it does not show the highway. She said for the proposed project you are planning to bring in 80,000 solar panels in the same way. She said she thinks that they will not be able to bring in those panels without tearing up someone's property. She stated that she has no problem with what they do, but she wants to protect her land. Chair Ohrstrom said that is sure that Hecate would take care of any damage to her property.

Tammy Viti, 1830 Feather Bed Road, White Post, VA stated that she was not prepared to speak today and that she came to the meeting to get more information on this proposed project. She said in a County like this where the Planning Commission and the Board of Supervisors has taken a lot of care over many years to protect the aesthetic value of this County. She stated that she is not against solar

power but it raises a lot of questions as it does not seem to fit the aesthetic of the County, otherwise we would not need so much landscaping. She said she is also concerned if it raises or lowers or does nothing to the neighbor's property values. She said she is also concerned that it does not add that much property tax value to the County. She said we are a small County geographically and a lot of the land is in easements and to take out a large area of 235 acres and take it off the table for any type of future development that could be more beneficial to the County is something we need to use due diligence on. She also said that the time line for Hecate is not the time line for the County. She said we are the ones that live here and will have to deal with all the repercussions from this. She stated that she is concerned with the financial stability of Hecate and is asking the Planning Commission to take their time in making a decision. She asked to have a number on the 164 houses that will be offered first dibs on this power and what it means in a dollar basis.

Ms. Shorr said that one of the reasons we are here is that the County adopted a solar use district via a text amendment. She stated that they have complied with all of the ordinance issues and we will address all the outstanding issues before it goes to the Board of Supervisors. She said they are working with the County to come up with an economic benefit package for the County. She said as far as any roads or properties being destroyed she assured that any damage would be repaired by Hecate. She stated that if damage is done to the roads they will fix them and this statement could be put in as a condition for approval. She said as far as the time line is concerned their time line is their time line and they have complied with every one of the ordinance provisions that the County has required. She stated that there are minor problems to correct which they will do in compliance prior to going to the Board of Supervisors meeting and certainly before the issuance of any building permits. She said that the County is the ultimate holder of our ability for us to start this project and we respect that very much. She said that in regard to neighboring property devaluation this is typical misinformation with wind and solar projects but there is no factual evidence that this solar project or any other solar project that actually did property value studies projects devalue the neighboring properties.

Mr. Schultz said that he agrees with Ms. Shorr as there have been a few other projects in Virginia that have been approved that actually did property value studies. He stated that looking at North Carolina they have done almost a gigawatt of solar development in fairly remote areas and they had property studies done and found out that there was no measurable difference one way or the other on property values. He stated that it is a matter of opinion on how you look at solar development. He said you either think it's great or you look at it as an eyesore. He said that what they have discovered is that there is interest from the neighbors in the beginning and then it becomes just part of the landscape. Ms. Shorr said that the land owner has an interest in leasing this property to Hecate for a twenty-five year period.

There being no further public comments, Chair Ohrstrom closed the public hearing.

The Commission voted to recommend approval of the Special Use Permit request subject to the 14 special conditions recommended by Staff with the addition of language to Condition #11 to ensure repairs of any damage to adjoining properties from trucks during construction, as well as final approvals from Virginia DEQ and Anderson & Associates prior to the Board of Supervisors' Public Hearing.

Yes: Caldwell, Bouffault (moved), Buckley, Lee, Kreider, Malone (seconded), Nelson, Ohrstrom and Turkel

No: No one

Absent: Kruhm

Abstain: Daniel

The Commission voted to recommend conditional approval of the site plan conditioned on resolution of all outstanding technical issues prior to the Board of Supervisors' Public Hearing.

Yes: Caldwell, Bouffault (moved), Buckley, Lee, Kreider (seconded), Malone, Nelson, Ohrstrom and Turkel

No: No one

Absent: Kruhm

Abstain: Daniel

Minor/Major Subdivision

MS-16-03, Grace Ritzenberg and Charles Wakeley. Request approval of a two lot Minor Subdivision and Maximum Lot Size Exception for the property identified as Tax Map #16-A-39, located at 67 North Hill Lane in the Buckmarsh Election District zoned Agricultural Open-Space Conservation (AOC)

Mr. Fincham explained this request. He said that since the last meeting of the Commission on April 1, 2016, Cloverleaf Environmental Consulting, Inc. suggested to Staff that their position was that the Clarke County Septic Ordinance requirements (500 feet minimum distance between a spring and a drainfield) would not be applicable to the siting of Septic Reserve Site B according to the Commonwealth of Virginia Code Section 15.2-2307, thereby not requiring re-location of the reserve site or the need for a variance. He stated that Bob Mitchell the County Attorney's opinion was "the foregoing provision of VA Code Section 15.2-2307 do not apply as suggested by the owner's representative" and "do not apply to the location of a reserve septic area necessitated by a voluntary subdivision of the property". He stated that a variance request application to the Board of Septic and Well Appeals was filed April 15, 2016 by the owner's attorney, Michael Hobert and the Public Hearing is scheduled for May 4, 2015. He said the variance request is for the location of Septic Reserve Site B to be approved as shown on the plat.

Mr. Fincham said that VDOT advised the proposed sight distance area should be physically cleared of trees for safety and that the area is cleared before the issuance of a building permit for Lot 2. He stated that VDOT said the driveway was not evaluated since it does not provide ingress/egress for the proposed subdivision. He said the plat notes that these three issues have been added. He said that the survey has also been revised to show the two additional springs, the intermittent stream and the old well. He said pending the variance approval Staff recommends approval of the request. After discussion with Staff and the Commission, Chair Ohrstrom called for a motion.

The Commission voted to approve this request.

Yes: Caldwell (moved), Bouffault (seconded), Kreider, Daniel, Malone, Nelson, Ohrstrom and Turkel

No: No one

Absent: Kruhm

Abstained: Buckley and Lee

Board/Committee Reports

Board of Supervisors (Mary Daniel)

Commissioner Daniel said the Board of Supervisors is moving forward with the request for proposals on the telecommunications study. She said the plan is to vote on the Berryville Area Plan next week and the Berryville Town Council will be voting on the Berryville Area Plan this coming Tuesday.

Board of Septic & Well Appeals (George Ohrstrom, II)

Chair Ohrstrom stated that Steven Soechtig filed an application appealing the Clarke County Septic Ordinance regarding the definition of a spring. He said that Grace Ritzenberg Revocable Trust filed an application for a variance request for a reserve area for an existing house.

Board of Zoning Appeals (Anne Caldwell)

No Report.

Historic Preservation Commission (Doug Kruhm)

Commissioner Caldwell stated that the awards luncheon will be held later this month.

Conservation Easement Authority (George Ohrstrom, II)


Commissioner Buckley said that we have some good easements in the works.

Other Business

Discussion, "Waterworks" Text Amendment and 2015 Addition of "Farm Distilleries" to Code of Virginia

Mr. Stidham said that this is the proposed Text Amendment that we had planned to set public hearing on to allow farm breweries and farm wineries to be exempt from "waterworks" requirements. He stated that while doing some last minute research he ran across some reference from Albemarle County on farm distilleries. He said while he was digging around he located this information and discovered that it was added to the Code of Virginia at the last session of the General Assembly in 2015. He stated that the General Assembly added language that limits local regulation of the holds of "limited distiller's licenses" in accordance with the Alcoholic Beverage Control Act. He said that these new regulations mirror recently adopted rules limiting local regulation of farm wineries and farm breweries, essentially mandating the right allowance of "farm distilleries". He stated that the proposed text amendment regarding waterworks usage by farm wineries and farm breweries would also apply to farm distilleries. He said that Staff recommends that the Commission defer setting public hearing on the amendment until the June meeting. He stated that Staff also proposes to expand the text amendment to include "farm distilleries" as a new by-right use in the AOC and FOC Districts with regulations that mirror Code of Virginia requirements and language used in the "farm breweries" Zoning Ordinance text amendment adopted by the Board of Supervisors in 2015.

On motion by Commissioner Caldwell and seconded by Commissioner Turkel the meeting was adjourned at 11:19 a.m.


George L. Ohrstrom, II, Chair


Brandon Stidham, Director of Planning

Minutes prepared by Debbie Bean, Recording Secretary